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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/766,539

Applicant(s)

DVORAK, ROBERT E.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 116 and 120-127 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 116 and 120-127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The following is a Final office action in response to communications received 12/29/2006. Claims 16-18 and 120-125 have been amended. Claims 126-127 have been added. Claims 1-23, 116, and 120-127 are pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 127 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 127 recites “modeling with the schedule of display fixtures”. There is insufficient antecedent basis for the limitation “the schedule of display fixtures” in the claim. Correction is required. For examination purposes, this limitation has been construed as a schedule of display fixtures.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1, 4-7, 10-23, and 121-124 are rejected under 35 U.S.C. 102(e) as being anticipated by Landvater (U.S. 6,609,101).

As per claim 1, Landvater teaches an improved management decision support system, including a computer system having memory and resources, a retail demand forecasting program applying one or more forecasting approaches, running on the computer system and generating output, and a set of analysis programs, running on the computer system and utilizing the output, said analysis programs generating at least one of (a) order of goods from a supplier-related data, (b) allocation of the goods to be shipped by the supplier-related data, or (c) distribution of goods to selling locations-related data (See figures 1, 2, 5, 9, and column 8, lines 9-40), the improvement comprising:

a presentation demand calendar utilized by the forecasting program to generate the output, said presentation demand calendar associating with a plurality of good-selling location pairs, data including a good identifier, a selling location identifier, a presentation demand type that selects one of a plurality of alternative treatments of presentation demand, and one or more presentation quantities each associated with a start date and a stop date (See figures 14, 15, 18, and 22, column 6, lines 45-60, column 8, lines 15-38, column 14, lines 25-50, column 17, lines 45-57, column 19, lines 9-17, and column 21, lines 15-25, wherein a presentation demand calendar is used with the forecasting program to determine stock and replenishment for each of the retail locations. Schedules of dates associated with presentations, replenishments, etc. are stored in the system. The products are stored on a per product per location basis (i.e. identifying the retail store and product to be at that retail store). Shelf configurations (i.e. presentation treatment) and quantities needed for these configurations are stored in the system with a start

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date and the next start date for a future configuration, the start date for the future configuration being a stop date for the current configuration); and

one or more additional analysis programs in the set of analysis programs generating at least two of: open to buy analysis, markdown management analysis, or promotional forward buying analysis, (See figures 19-21 and column 17, lines 5-55, which disclose promotions planning. See figure 2 and column 20, lines 30-50, which discusses OTB management by considering the financials and inventory budget).

As per claim 4, Landvater teaches wherein the start dates and stop dates for the one or more presentation quantities define non-overlapping periods (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein a presentation ends when another begins in the planning of the system for the same item).

As per claim 5, Landvater teaches wherein the start dates and stop dates for the one or more presentation quantities define overlapping periods (See figures 14, 15, 18, column 6, lines 45-60, column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 23, lines 45-65, wherein start and stop dates exist for different products thought the system and therefore the presentation of product A and product B would differ, and thus, overlap).

As per claims 6-9, Landvater teaches wherein the good identifier associated with good-selling location pairs includes a good number and a good description and Landvater also teaches a good description table (See column 8, lines 5-25, wherein the good identifier includes the good number on hand and a product description, which are stored in the database).

As per claims 10-12, Landvater teaches wherein the set of analysis programs is adapted to basic retail goods, to seasonal retail goods, and to fashion retail goods (See column 10, lines

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30-45, column 12, lines 9-40, column 15, lines 25-50, and column 19, lines 5-20, wherein the program considers basic goods, retail goods, and seasonal goods of retailers).

As per claim 13, Landvater teaches wherein the set of analysis programs operate on daily or more frequent period forecasts (See figure 8, column 10, lines 20-50, column 13, lines 30-36 and 49-58, which discusses daily forecasts).

As per claim 14, Landvater teaches wherein the set of analysis programs operate on weekly forecasts (See figure 8, column 10, lines 20-50, column 11, lines 1-25, and column 21, lines 15-35, which discuss weekly forecasts).

As per claim 15, Landvater teaches wherein the additional analysis programs operate on pairings of individual goods in individual selling locations (See column 8, lines 5-25, column 11, lines 20-32, column 17, lines 35-57, column 19, lines 5-17, column 23, lines 45-65, which discuss goods at individual locations).

As per claim 16, Landvater teaches wherein the additional of analysis programs operate on groups of goods in individual selling locations (See column 5, lines 1-5, column 8, lines 5-25, column 11, lines 20-32, column 15, lines 25-45 and 55-65, column 23, lines 45-65, which discuss groups of goods).

As per claim 17, Landvater discloses wherein the additional analysis programs operate on individual goods in groups of selling locations (See column 5, lines 1-5, column 6, lines 45-60, column 8, lines 5-25 and 50-65, column 11, lines 20-32, which discuss individual goods at multiple selling locations, and overriding occurs).

As per claim 18, Landvater teaches wherein the additional analysis programs operate on groups of goods in groups of selling locations (See column 5, lines 1-5, column 6, lines 45-60,

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column 8, lines 5-25 and 50-65, column 11, lines 20-32, column 15, lines 25-45 and 55-65, wherein goods are grouped and projected across the retailers).

As per claim 19, Landvater teaches wherein the analysis is displayed on a monitor in communication with the computer system (See figures 4 and 22, column 7, lines 35-50, column 21, lines 15-35, which discusses a monitor in connection with the system).

As per claim 20, Landvater teaches wherein the analysis is saved in spreadsheet file format (See column 21, lines 15-40, which teaches spreadsheets).

As per claim 21, Landvater discloses wherein the analysis is printed on paper, microfiche, or optical media (See column 7, lines 35-50, wherein the analysis is placed on optical media).

As per claim 22, Landvater teaches wherein the analysis is distributed by e-mail or other messaging facility (See figure'3, column 7, line 50-column 85 and 25-45, column 21, lines 15-34 and 41-50, column 22, lines 30-55, wherein the forecasting and other analysis is transmitted in a client server environment).

As per claim 23, Landvater teaches wherein the analysis generated by the additional analysis programs is utilized ~ input to an additional process (See figures 2 and 22, column 7, lines 35-50, column 20, lines 30-50, wherein the analysis is used with other analyses).

As per claim 121, Landvater teaches wherein the presentation demand type selected causes the presentation quantity used by the-forecasting program to be the presentation quantity for the selling location on the first day of the predetermined selling period (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the start date is explicitly stored and on this data the presentation quantity of items is need to

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support the display. See also column 6, lines 45-60, column 17, lines 45-57, and column 21, lines 15-25).

As per claim 122, Landvater teaches wherein the presentation demand type selected causes the presentation quantity used by the forecasting program to be the presentation quantity on the day of the predetermined selling period when the good is received at the selling location (See column 3, lines 33-57, column 8, lines 25-40, column 14, lines 25-50, column 15, lines 10-25, column 18, lines 30-50 and line 63-column 19, line 17, wherein the quantity needed for the display is known to the system and the replenishment shipments arrive so that inventory is at the needed level for supporting the display).

As per claim 123, Landvater discloses wherein the presentation demand type selected causes the presentation quantity used by the forecasting program to be the largest presentation quantity associated with the good at the selling location for any day of the predetermined selling period (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the number of items needed for the presentation/display of the good is the largest quantity displayed. See also column 6, lines 45-60, column 17, lines 45-57, and column 21, lines 15-25).

As per claim 124, Landvater discloses wherein the presentation demand type selected causes the presentation quantity used by the forecasting program to be the larger of the presentation quantities or the projected demand requirements for the good at the selling locations (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the number of items needed for the presentation/display of the good is the largest quantity displayed. See also column 6, lines 45-60, column 17, lines 45-57, and column

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21, lines 15-25. Safety stock will also be held based on the forecasts, if needed).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-3, 8-9, 120, and 125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvater (U.S. 6,609,101).

As per claims 2 and 3, Landvater teaches wherein the start date is stored explicitly and the stop date is stored implicitly and associated with a memory location in which the presentation quantity is stored (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the start date is explicitly stored and the stop date is implicitly stored).

However, Landvater does not expressly disclose that the start date is implicitly stored and that the stop date is explicitly stored.

Landvater discloses shelf configurations (i.e. presentation type) and quantities needed for these configurations are stored in the system, wherein the start date for the current configuration is stored, as well as the next start date for a future configuration, and thus the future date is the stop date of a current configuration. Landvater discloses the importance of the system knowing the dates for specific shelf configuration so that the system may functionally plan for such

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events. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to store start and stop dates so that they are known to the system, whether implicit or explicitly, in order to more efficiently maintain attractive displays by more accurately calculating the needed stock to support the display during the display period. See column 14, lines 25-35 and 55-65 of Landvater.

As per claims 8-9, Landvater teaches a selling location identifier associated with good-selling location pairs includes a selling location number and a selling location description, and further includes a selling location description table and that the store is part of a retail chain (See column 8, lines 5-25 and 35-40, column 9, lines 3-27, column 24, lines 15-35, which discloses good/location combinations stored in the database for replenishment planning).

However, does not expressly disclose that the location is identified by number and description.

Landvater teaches a system that stores good/location combinations in the database, the retail stores of Landvater being part of a chain of stores. Examiner takes official notice that it is old and well known in the art that chain stores have location numbers associated with them for identification reasons. Further, it is also well known that chain stores have a location description associated with them, such as address details. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to identify the location of Landvater using number and description in order to efficiently distinguish between retail stores in the same retail chain.

As per claim 120, Landvater teaches a presentation demand type affects the presentation quantity needed (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines

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10-25, column 19, lines 5-17) as well-as using average demands by the forecasting program (See column 10, lines 50-67). However, Landvater does not expressly disclose that the presentation quantity used is the average presentation quantity for the location during the predetermined selling period.

Landvater discloses time phased replenishments based on inventory needs at specific times, such as the number of items needed for displays. Landvater specifically discloses using average demands to plan for inventory. Examiner takes official notice that retailers, when planning for a display, plan inventory to fully maintain the display over its time period of use. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the number of items needed to fill the display as the average presentation quantity needed to support a presentation over a time period in order to more efficiently maintain attractive displays by more accurately calculating the needed stock to support the display during the display period. See column 14, lines 25-35 and 55-65 of Landvater.

As per claim 125, Landvater teaches wherein the presentation demand type selected causes the presentation quantity used by the forecasting program to be the presentation quantity for the selling location on a specific day of the selling period (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the start date is explicitly stored and on this data the presentation quantity of items is need to support the display. See also column 6, lines 45-60, column 17, lines 45-57, and column 21, lines 15-25).

However, Landvater does not expressly disclose that this specific day is the last day of the predetermined selling period.

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Landvater teaches a reorder point that is based on a specified time and number of items needed by a store and/or to support a display. Landvater specifically discloses that the specified time is the first day of a selling period. Examiner takes official notice that it is old and well known in inventory scheduling and management to have plans for inventory levels for every day and period throughout the year, such as the day one wishes to stock out an item. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to specify the inventory level needed for any specific day in the system in order to more efficiently maintain attractive displays by more accurately calculating the needed stock to support the display during the display period. See column 14, lines 25-35 and 55-65 of Landvater.

8. Claim 116 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Landvater (U. S. 6,609,101) in view of Display Unlimited (www.displayunlimited.com).

As per claim 116, Landvater teaches wherein the presentation demand calendar further includes: a schedule of different displays including display identifiers for a plurality of display types present at particular selling locations (See column 14, lines 25-58, wherein different displays are scheduled, such as shelves and floor models); and

one or more presentation quantity tables, the presentation quantity tables associating with a plurality of good-selling location pairs, data including the display identifier, the good identifier, the selling location identifier, and the one or more presentation quantities each associate with the start and stop dates (See figures 14, 15, 18, and 22, column 6, lines 45-60, column 8, lines 15-38, column 14, lines 25-50, column 17, lines 45-57, column 19, lines 9-17, and column 21, lines 15-25, wherein schedules of dates associated with presentations, replenishments, etc. are stored in

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the system. The products are stored on a per product per location basis (i.e. identifying the retail store and product to be at that retail store). Shelf configurations (i.e. presentation type) and quantities needed for these configurations are stored in the system, wherein the start date is stored, as well as the next start date for a future configuration, and thus the stop date of a current configuration. Further, display, types are discussed, such as a shelf or a floor model).

However, while Landvater discloses a number of shelf configurations, shelves versus floor displays, and storing information concerning the shelves and displays in the system, Landvater does not expressly disclose specific display fixtures including fixture identifiers and quantities of the fixture, or data including a fixture identifier associated with the PQ tables.

Display Unlimited discloses different types of display fixtures and using these identified fixtures in retail environments (See pages 1, 4, and 5).

Landvater discloses alternative treatments of presentation demand (i.e. different shelf configurations) as well as different types of display (shelves and floor models). Landvater stores information concerning these presentations and displays in the system. Examiner points out that different fixtures types and the scheduling of different fixture types for store resets and remodels are well-known in the retail industry. Examiner further points out the recitation of display fixtures is non-functional data since the data is merely being stored, and therefore the system is capable of storing such data, regardless of what the data represents. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include data representing the fixture types of Display Unlimited in the data already stored by Landvater concerning displays and shelves in order to more accurately calculate the stock replenishments

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needed to maintain attractive displays by ensuring the capacity of the fixtures is accounted for.

See column 14, lines 25-35 and 55-65 of Landvater.

9. Claim 126-127 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (U.S. 6,151,582) in view of Landvater (U. S. 6,609,101).

As per claim 126, Huang et al. teaches a computer-implemented method of generating reports from simulated unit inventory and unit sales on a bottom-up per location basis for a multitude of items at a plurality of locations, including:

modeling with a presentation demand calendar, which is a data structure stored in computer readable memory, a plurality of having demand types that have differing impacts on quantity requirements, wherein a presentation event data tuple for a retail event in the demand calendar includes at least a good identifier, a selling location identifier, a demand type that selects one of a plurality of alternative treatments of demand, and one or more quantities each associated with a start date and a stop date (See column 13, lines 27-35, column 18, line 45-column 19, line 10, column 22, lines 6-38, column 33, line 65-column 34, line 20, column 37, lines 39-46, which discloses a calendars used for types of);

forecasting unit inventory and unit sales at a per-item, per-location level using the demand type to identify one or more quantity requirements and, in combination with other data in the event data tuple, to modify quantity requirements during the event (See column 13, lines 1-10 and 27-35, column 18, line 45-column 19, line 10 and lines 48-58, column 55, column 57, lines 13-35, column 109, lines 20-30 and 46-61, which discloses making inventory determinations using the data stored and expected demand impacts); and

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generating, from results of the forecasting using the demand calendar consistently across analytical tools, analytical reports that support retailing activities (See column 11, lines 5-16, column 106, lines 60-67, column 107, lines 37-55, column 108, lines 15-25 and 33-45, column 109, lines 45-60, which disclose generating reports).

However, Huang et al. does not expressly disclose that the retail events with demand types and quantity requirements are retail presentation events having presentation demand types that impact presentation quantity requirements or that the demand calendar is a presentation demand calendar.

Landvater discloses retail presentation events having presentation demand types that impact presentation quantity requirements or that the demand calendar is a presentation demand calendar (See figures 14, 15, 18, and 22, column 6, lines 45-60, column 8, lines 15-38, column 14, lines 25-50, column 17, lines 45-57, column 19, lines 9-17, and column 21, lines 15-25, wherein a presentation demand calendar is used with the forecasting program to determine stock and replenishment for each of the retail locations. Schedules of dates associated with presentations, replenishments, etc. are stored in the system. The products are stored on a per product per location basis (i.e. identifying the retail store and product to be at that retail store). Shelf configurations (i.e. presentation treatment) and quantities needed for these configurations are stored in the system with a start date and the next start date for a future configuration, the start date for the future configuration being a stop date for the current configuration).

Both Landvater et al. and Huang et al. are concerned with inventory planning and scheduling and maintaining enough inventory to meet the needs of retail events. Landvater specifically discloses the retail events of displays/presentations with presentation demand

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quantities for maintaining the displays, as well as different types of display (i.e. different shelf configurations and shelves versus floor models). Landvater stores information concerning these presentations and displays in the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to include presentations as retail events of Huang et al. that require inventory considerations in order to more accurately calculate the inventory needed to maintain attractive displays by ensuring the capacity of the displays is accounted for. See column 14, lines 25-35 and 55-65 of Landvater.

As per claim 127, Huang et al. does not expressly disclose and Landvater et al. discloses: modeling with a schedule of display types, which is a data structure stored in computer readable memory, display types and capacities in the plurality of locations, the schedule of displays identifiers for a plurality of types and quantities of the displays present at particular selling locations (Landvater discloses a number of shelf configurations, shelves versus floor displays, and storing information concerning the shelves and displays in the system. See figures 14, 15, 18, and 22, column 6, lines 45-60, column 8, lines 15-38, column 14, lines 25-50, column 17, lines 45-57, column 19, lines 9-17, and column 21, lines 15-25, wherein schedules of dates associated with presentations, replenishments, etc. are stored in the system. The products are stored on a per product per location basis (i.e. identifying the retail store and product to be at that retail store). Shelf configurations (i.e. presentation type) and quantities needed for these configurations are stored in the system, wherein the start date is stored, as well as the next start date for a future configuration, and thus the stop date of a current configuration. Further, display, types are discussed, such as a shelf or a floor model);

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associating particular presentation events with use of particular display types to display particular items; and deriving at least some of the presentation quantity requirements from the use of the particular display types to display the particular items (See column 14, lines 25-58, wherein different displays are scheduled, such as shelves and floor models. See also figures 14, 15, 18, and 22, column 6, lines 45-60, column 8, lines 15-38, column 17, lines 45-57, column 19, lines 9-17, and column 21, lines 15-25, wherein schedules of dates associated with presentations, replenishments, etc. are stored in the system. The products are stored on a per product per location basis (i.e. identifying the retail store and product to be at that retail store). Shelf configurations (i.e. presentation type) and quantities needed for these configurations are stored in the system, wherein the start date is stored, as well as the next start date for a future configuration, and thus the stop date of a current configuration. Further, display, types are discussed, such as a shelf or a floor model).

However, while Landvater discloses a number of shelf configurations, shelves versus floor displays, and storing information concerning the shelves and displays in the system, Landvater does not expressly disclose that the displays and display types are specific display fixtures including fixture identifiers, fixture types, and quantities of fixtures.

Landvater et al. and Huang et al. are analogous and combinable for the reasons set for in claim 126. Further, Landvater discloses alternative treatments of presentation demand (i.e. different shelf configurations) as well as different types of display (shelves and floor models). Landvater stores information concerning these presentations and displays in the system. Examiner points out that different fixtures types and the scheduling of different fixture types for store resets and remodels are well-known in the retail industry. Examiner further points out the


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recitation of display fixtures is non-functional data since the data is merely being stored, and therefore the system is capable of storing such data, regardless of what the data represents. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include data representing the fixtures and fixture types in the data already stored by Landvater concerning displays, shelves, and capacities associated with their presentation in order to more accurately calculate the stock replenishments needed to maintain attractive displays by ensuring the capacity of the fixtures is accounted for. See column 14, lines 25-35 and 55-65 of Landvater.

Response to Arguments

10. Applicant's arguments with regards to Landvater (U.S. 6,609,101) and Landvater in view of Display Unlimited (www.displayunlimited.com) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that Landvater does not teach or suggest (1) six alternative treatments of presentation quantities, or even two treatments, and that a presentation demand type relates to a mathematical treatment of forecast demand, which is irrespective of the shelves or type of fixtures used, (2) two of the three of open to buy analysis, markdown management analysis, or promotional forward buying analysis, (3) a single good at a single selling location, a single good at a group of location, a group of goods at a single location, or a group of goods at a group of locations, (4) the limitations of claims 2-3, (5) as per claim 121, Landvater does not teach the limitations of claim 121 and Examiner official notice in claim 120 teaches away from claim 121. Further, Applicant argues that Landvater in view of Display Unlimited do not teach or suggest (6) the limitations of claim 116, that Examiner overstates Landvater's disclosure, and that Display Unlimited is merely a furniture advertisement that has

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nothing to do with software design. Further,  Applicant's argues examiners official notice on page 21, with regards to claims 2-3, page 22, with regards to claims 120 and 125, by stating that a declaration is required and further states that with respect to claim 120, the official notice is improper because the stated fact is not true.

In response to argument (1), Examiner points out that claim 1 recites "a presentation demand type that selects one of a plurality of alternative treatments of presentation demand". Landvater discloses multiple configurations for products on shelves and on display at a retail store, these multiple configurations being alternatives ways to handle presentation requirements. The system of Landvater calculates a sales forecast for a product and based on this forecast and the presentation configuration (or type), the system determines the stock needed to satisfy the demand. See figures 14, 15, 18, and 22, column 8, lines 15-38, column 14, lines 25-50, column 15, lines 1-20, and column 21, lines 15-25, wherein shelf configurations (i.e. presentation treatment) and quantities needed for these configurations are stored in the system with a start date for a configuration. The system uses these calendared/scheduled dates of presentations to determine inventory needs.

As to applicant's discussion that a presentation demand type relates to a mathematical treatment of forecast demand, which is irrespective of the shelves or type of fixtures used, Examiner is unclear how this statement specifically relates to the recited language in claim 1.

Further, Landvater does calculate a sales forecast and uses the forecast and the presentation configuration to determine needed stock. Further, Examiner is unclear as to what is meant by the applicant's arguments regarding six or even two alternative treatments or applicant's discussion of "six logics". Therefore, Landvater teaches claim 1, as set forth above.

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In response to argument (2), Examiner respectfully disagrees. Examiner first points out that claim 1 requires "one or more additional analysis programs in the set of analysis programs generating at least two of". Landvater clearly discloses two of the three analysis programs of Open-to-Buy Analysis and promotional forward buying analysis. Applicant has defined Open-to-Buy (OTB) management on page 9 of the originally presented specification as predicting future inventory levels based on the current inventory, expected sales, etc., and comparing the future inventory levels to budget levels. Landvater discloses predicting the inventory for the future based on expected future sales and the financial budgets set forth by the financial planning system. See specifically column 20, lines 30-50, which discusses using a financial planning system to project future sales estimates and compare these estimates to budgets and financial data. The projected financial plan reveals the projected gross margins and projected inventory investment, and allows for the determination of replenishment shipments. As for promotional forward buying analysis, see specifically figures 19-21 and column 17, lines 5-55, which disclose promotions planning, wherein inventory buying occurs to ensure enough inventory is on hand for a promotional period.

In response to argument (3), Examiner respectfully disagrees. Examiner first notes that in each of claims 16-18, the language recites "wherein the additional analysis programs operate on", without specifically reciting, functionally, how these programs operate on such information. The system of Landvater considers retail chain environments, single stores, goods that are grouped, goods that stand-alone, etc. See column 5, lines 1-5, column 8, lines 5-25, column 11, lines 20-32, column 15, lines 25-45 and 55-65, column 23, lines 45-65, which discuss groups of goods which are considered in the system of Landvater discloses. See also column 6, lines 45-60, and

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column 8, lines 5-25 and 50-65, which discuss individual goods at multiple selling locations, and overriding occurs and grouping goods and projecting across the retailers.

In response to argument (4), Examiner reminds the applicant that claims 2-3 were rejected under 35 USC § 103, the examiner asserting that while Landvater teaches explicitly stored start dates and implicitly stored stop dates (the day that a new presentation is set to start) in column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, Landvater does not expressly disclose that the start date is implicitly stored and that the stop date is explicitly stored. Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to store start and stop dates so that they are known to the system, whether implicit or explicitly, in order to more efficiently maintain attractive displays by more accurately calculating the needed stock to support the display during the display period. See column 14, lines 25-35 and 55-65 of Landvater. Landvater specifically discloses the importance of the system knowing the dates for specific shelf configuration so that the system may functionally plan for such events.

In response to argument (5), Examiner is not specifically clear as to what applicant is arguing. First, claim 121 was rejected under 35 USC 102 as being anticipated by Landvater. In claim 121, Examiner asserted that Landvater teaches that the presentation demand type selected causes the presentation quantity used by the forecasting program to be the presentation quantity for the selling location on the first day of the predetermined selling period. This is specifically taught in column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the start date is explicitly stored and on this data the presentation quantity of items is need to support the display.

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In claim 120, examiner took official notice that retailers, when planning for a display, plan inventory to fully maintain the display over its time period of use. Examiner is unclear who this relates to the forecasting program scheduling enough inventory for the first day of the presentation selling period. Specifically, claim 121 discloses the amount of inventory required on the first day of the predetermined selling period, whereas claim 120 is concerned with the average demand during a selling period. Thus, since the claims are directed to two separate concepts, examiner is unclear as to what the applicant is specifically arguing.

In response to argument (6), Examiner respectfully disagrees. Examiner explicitly stated that Landvater does not expressly disclose specific display fixture types and numbers of the named display fixture types at locations. Landvater does disclose a computer-based system that stores information about shelves and (the setup of these shelves, as well as floor displays (even if the display is one bed), to track in the system the need for product reorders. Therefore, the shelf configurations (ie number of facings and number of shelves) are used to determine the amount of stock needed to fill the display, by the system. Therefore, the "shelf configurations" of Landvater stored by the system and the "display fixture types" of the currently recited claims serve the same purpose - determining demand requirements for goods at specific times.

As to the discussion by the applicant about Landvater disclosing "a number of shelf configurations", examiner points out that the definition of configuration is an arrangement of parts or elements. Therefore, Examiner maintains that Landvater does disclose a number of shelf configurations, in light of this definition, since Landvater discloses the ability to store displays with different number of facings and shelves, where facings and shelves are parts and/or elements. Landvater specifically uses the language "configuration" in column 14, lines 25-35.

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Further, the system of Landvater is capable of recognizing floor displays for demand related purposes. Whether it is one bed or 50 sitting on the floor of the store, the system still considers the demand for products to support such displays and in the same manner. Therefore, regardless of how applicant wants to construe what was intended by examiner's use of the terms configuration and floor display, the functionality of Landvater remains the same - using the number of products associated with the display to determine the need/demand for products and product stocking. In this respect, the "shelf configurations" and "floor displays" stored in the system of Landvater and the "display fixture types" of the currently recited claims serve the same purpose - to determine demand requirements for goods at specific times.

As to applicant's discussion of the secondary reference being an advertisement for hard goods, Examiner respectfully disagrees. First, the secondary reference discloses a consulting service that aids a retailer in designing and arranging displays and fixture types at his/her sales location. Second, this reference was merely relied on to teach different display fixture types and using these fixture types to design layouts of stores in retail environments (See pages 2-3, page 4, section 1, and page 5, section 1, which discloses fixture types and layouts of stores with multiple elements). Thus, this teaching is specifically relevant, since the system of Landvater is capable of storing displays in memory and Display Unlimited discloses more types of displays that were being used by retail stores at the time of the invention. Thus the display types of Display Unlimited would be able to be stored in the system of Landvater to accomplish the same end result - establishing demand for products and product stocks needed to support the display. The system of Landvater is mainly concerned with the product needs of the display.

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In response to argument (7), Applicant has attempted to challenge the Examiner's taking of Official Notice. There are minimum requirements for a challenge to Official Notice:

(a) In general, a challenge, to be proper, must contain adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice

(b) Applicants must seasonably traverse (challenge) the taking of Official Notice as soon as practicable, meaning the next response following an Office Action. If an applicant fails to seasonably traverse the Official Notice during examination, his right to challenge the Official Notice is waived.

With regards to claim 2-3, Examiner notes that applicant failed to seasonably challenge this official notice, as it was first presented in the office action of 2/15/2006. Since this office action, a response was submitted by applicant on 7/14/2006 and another office action was issued by examiner on 09/27/2006. Therefore, the current traversal is not timely.

With regards to applicant's challenging of the official notice in claims 120 and 125 and demand for a declaration, Examiner notes that, based on this challenge, the examiner must provide documentary evidence in the next Office action of the subject matter of the official notice. See MPEP 2144.03. Therefore, Examiner is not required to submit a declaration.

With regards to claim 120, examiner notes that the claim limitations recite that "the presentation quantity used by the forecasting program [is] the average presentation quantity for the location during the a predetermined selling period". Examiner notes this requires nothing about the start date or stop date, just about during the selling period. Thus, when examiner takes official notice that retailers, when planning for a display, plan inventory to fully maintain the

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display over its time period of use, examiner is also referring to this time during the selling period.

See Roden et al. (U.S. 6,249,774), at least column 1, line 63-column 2, line 15 and lines 45-60, and column 8, lines 30-50, which discloses inventory management and maintaining inventory needed to restock store shelves. See also Kimbrow (U.S. 4,737,910), column 1, lines 55-67, which discloses reordering inventory to maintain a sufficient amount of inventory between a maximum and minimum acceptable level.

With regards to claim 125, Roden et al. (U.S. 6,249,774) discloses inventory management and using daily sales. See column 8, lines 30-50, which discusses forecasting by knowing the daily on-hand inventory level of a customer. See Koloszyk ("Merchants try Complex Mathematical Tools to Improve Inventory Decisions"), which on page 3 discloses an "endgame" tool for ending the selling of an item. See also Lucas (6,996,538), column 23, which discloses a product's end date in an inventory controlling system, after which the product cannot be ordered.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Roden et al. (U.S. 6,249,774) discloses inventory management and using daily sales.

Koloszyc ("Merchants try Complex Mathematical Tools to Improve Inventory Decisions") discloses an "endgame" tool for ending the selling of an item.

Lucas (6,996,538) discloses a product's end date in an inventory controlling system, after which the product cannot be ordered.

Kimbrow (U.S. 4,737,910) discloses reordering inventory to maintain a sufficient amount of inventory between a maximum and minimum acceptable level.

Waller et al. (U.S. 2001/0047293) discloses stocking shelves, inventory needed to satisfy demand, and inventory control systems.

Shipman (U.S. 5,819,232) teaches inventory control and scheduling.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is 571-272-6737. The examiner can normally be reached on M-F, 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

owd

bvd

March 29, 2007

Beth Van Doran
AU 3623
Patent Examiner